QUID NOVI

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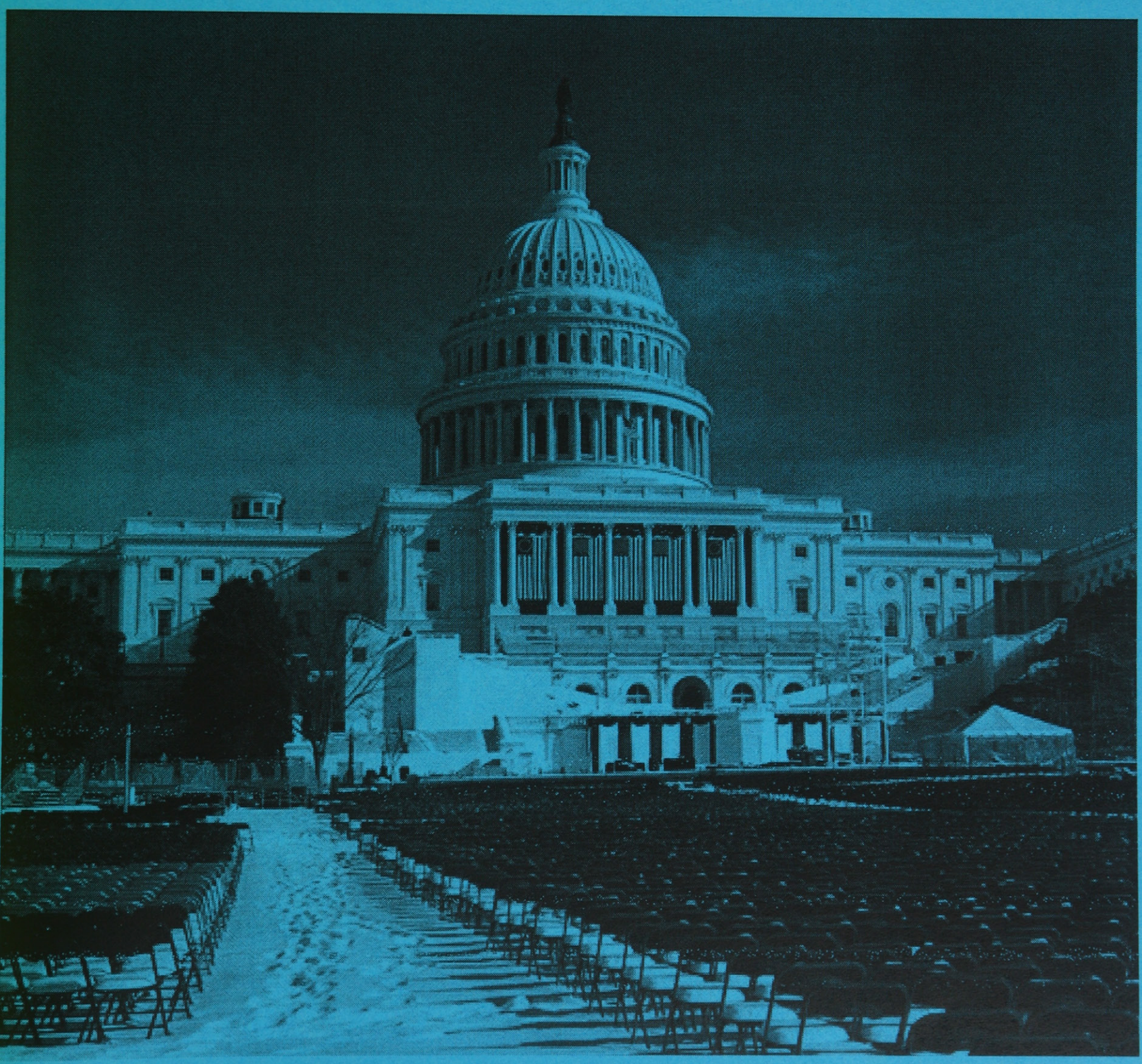

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IN THIS ISSUE...

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CEGEP, SHMEGEP

by Rachel Sevigny (Law III)
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BREAKING THE LEGAL SKULL

by Stefan Szpajda (LAW II)

Note: This article is in response to Natai Shelsen's response to Tim Bottomer's response to the rising vein in his neck that was in response to the abuse of class participation, which was in turn likely in response to a metaphorical rising of another sort altogether.

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Last semester, the *Quid* featured an article much in line with the popular pseudo-economic theories of the day, penned by our very own Tim Bottomer. In it he proposed a chit-system of in-class participation based on the following two principles: a) people do not value that which they are provided for free; and b) people should think before they open their mouths in class. I do not find it necessary to respond to the particular details of his "Modest Proposal", as the propositions upon which it is based are irreconcilably at odds with the best interests of the faculty. Allow me to explain why this is so.

Bottomer is correct to assert that people do not value things that that they receive for free. He fails to consider, however, that the inverse of this statement is that they tend to *really* value things for which they have paid a fee. His analysis thus omits the effect of replacing ambiguous *moral* incentives to regulate class behavior with quantifiable *economic* incentives. The small chance that some of these mealy-mouthed yobs possess enough decency to keep quiet out of fear of complete social exclusion will cease to be relevant. With the introduction of his system, the first and only question will be "Do I have enough chits to talk about my cherished and, as far as I'm concerned, unexplored belief that we have a problem with access to justice in this country?" If the answer is in the affirmative, we shall be powerless to stop them and their pointless anecdotes. If it is in the negative, we are all their potential victims as they seek more chits.

An appetite for power is not satisfied by rationed privilege. After a period of *disturbing colonizing behavior* they will acquire the chits of less war-like students, who for all their posthumous nobility will not be appreciative of their relegation to the proverbial bench by pushy chit-mongers. Possessed of means to unequivocally *quantify* their *right* to pontificate unselfconsciously, they will in all likelihood enthrall us with incisive commentary on topics ranging from the *Charter* to ... the *Charter*. A right which under Bottomer's system shall *benefit from the weight of the state's various enforcement mechanisms*. Imagine, self-righteousness being granted proprietary rights! A concomitant sense of entitlement to bask in warm timbre of their nasally voices will doubtless emerge. Whatever shame or self-doubt that existed before will be replaced with *pride of ownership*. A new Rome shall be founded *in this very faculty*, whereupon the victorious triumvirate shall wreak havoc on all. The Iron Law of Oligarchy won't yield to your crummy paper-based system, Bottomer!

Bottomer's second proposition, that people should think before they speak in class, is likewise incomplete. Let's universalize this maxim à la Kant, and systematize the ensuing results. Faced with glowing insight from a succinct, intelligent, and chit-respecting student, Professors might be tempted to conclude that either that *we are all brimming with wisdom* or that *we would all be better off if we took steps to self-inform*. Burdened by the rigid, Germanic legitimacy of a chit system, there will be no room left for the soft factors and community norms. The unintended consequence of this will be more rigorous standards that do not necessarily correspond with the expectations or desires of faculty or students. Once again, the entitled prick with the stupid grin on his face will disproportionately impact the classroom environment. Armed with the *illusory transparency* of a chit-system, his *insidious influence* will be all the more damnable! This cannot be permitted to transpire.

As any good law student should know, replacing amorphous community norms with overbearing positive law brings a measure of otherwise nonexistent certainty to procedure. But we should think twice before bestowing those with tendencies toward self-importance with hitherto uncharted levels of legitimacy, for in response to our chortles guilty parties will merely proffer a receipt.

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Not convinced? I invite you to examine the empirical evidence outfitted by history. Consider the Pythagorean theorem. It's perfect, right? Well, Hippasus of Metapontum didn't think so. So Pythagoras drowned his sorry ass. Partisans of irrational numbers have been afraid of water ever since. Frankly, as far as I'm concerned, this is both Just and Proper.

ATTENTION ALL GRADUATING STUDENTS: THIS YEAR'S GRAD BALL DEPENDS ON YOU!

by Megan Cowan and Lisa Smith (LAW III)

Hello to everyone, and a BIG congratulations on reaching your final semester! Returning to the Faculty for the last time certainly brings about mixed emotions, and what better way to finish off your three, three-and-a-half or four years here than a huge party?

In the next week or so, you will receive a survey about the biggest end-of-term party there is – the Grad Ball. The survey was designed by the Grad Ball committee to make sure that this year's ball will be the best one the faculty has ever seen, and for that we need your help!

With the extreme cold of late, it might seem difficult to think of spring and the end of the term – but in order to get things rolling, we need to hear what YOU want at YOUR graduation ball. Afraid the ball will conflict with your plans to write the Ontario bar? Let us know! Dying for a seven-course meal? Tell us! Don't have much money to spend on tickets due to 4+ years of student loans? We want to know! Our survey will touch on all of these aspects (and more!), and there will be plenty of extra space for you to fill in any other comments or suggestions you might have.

The committee promises to do our best to take all of your ideas and preferences into account when organizing this year's ball. Obviously, we can only do so if you actually tell us what you want in the survey, so PLEASE take a few minutes to fill it out and let us know what you think – we think the ball will be that much better because of it.

innocent.

You want to help wrongfully convicted persons prove their innocence. Join Innocence McGill.

You have until this Wednesday at 5pm to apply: innocence.law@mail.mcgill.ca

continued from page 2... When people refer to students who came from CEGEP as "CEGEP kids" it bothers me. When people tell me I missed out on undergrad and that they wouldn't have came in from CEGEP, I get offended (do you not think that we have thought about that when we were deciding to come here?). I honestly cannot get passed it. I start to see discrimination in places where maybe there wasn't any. For instance, while I was organizing Orientation 2007, I introduced myself to a guy in first year and we had that same conversation that I was talking about earlier, and as soon as I told him I was from CEGEP, he turned his head and spoke to someone else. This really hurt me, honestly, is being 2-3 years younger than someone THAT bad? Fortunately, this guy ended up being a friend of mine and he probably doesn't realize how his actions hurt me.

Another example of my complex getting to me is when I introduced myself to a transfer student, who happened to be from Montreal, and the fact that I was from CEGEP came up (come on, that was like 3 years ago!) and before she said anything else, she said "Oh, so you're like really young," and I felt like she was looking down to me. I AM 22 not 12!!

You'd think that after three years I'd kind of get over it and try to brush it off my shoulders when I hear side-handed remarks about "CEGEP kids" and how we don't deserve to be here, that we are too young and take all the "good" grades. Most of the time people say things like that to me not thinking/knowing that I am actually from CEGEP. I am trying to brush it off, believe me. (I'd like to apologize to my friends who have to hear me complain about this quite often!)

But what really gets me are the things I hear year after year about the new group of students. Someone came up to me this fall and told me that they were not going to vote for a particular student in elections because the candidate was from CEGEP. ARE YOU KIDDING ME? And why on earth are you telling me that when I am a CEGEP student who happens to be an elected executive member of the LSA?

One of my favorite CEGEP 'single-outs' is in regards to the JD/LLB issue that is going on. If you go to the website that was put up there is a little survey there indicating the different options that students would like to see. One of the choices is "*J.D./B.C.L. for students with undergrad degree and LL.B./B.C.L. for former CEGEP students.*" When I saw this I nearly peed my pants! Last time I checked law students at McGill Law with a CEGEP background did the 105 credits like everyone else, and learned both the common and the civil law...some people actually think that we shouldn't be able to get the same distinction as our peers. ARE YOU KIDDING ME?

But I must tell you that my all-time favorite CEGEP insult was when someone told me that I was a bad, unskilled and inexperienced president because I was from CEGEP!? Really? Is that all you got? That is why I am not good at my job, a job that I have been involved with for three years, because I am a couple of years younger than you? Alrighty then...

What is this undercurrent at the faculty that stigmatizes CEGEP students? What did we do to warrant such attitude? Sure, we are a few years younger. Yeah, we don't have an undergrad...but am I missing something here...how does that have anything to do with the rest of the students? If anything, that is something that could disadvantage us (in terms of say, writing experience) and advantage the rest.

I would like to say this on behalf of all my co-cegepien(nes) that what you say, the comments that you make, the looks you give, we hear them and they stick with us. So what if we are a couple of years younger than you, we deserve to be here just as much as anyone else does. We had to work hard just like you all did to get here. Now that we are here (and for some of us, we have now been here longer than you), it doesn't matter where we went to school or when our birthdays are, as soon as we walked through the library doors in August, a clean slate was made and we were all in the same boat, whether or not people wanted to acknowledge it. Law school is stressful enough as is and the CEGEP Complex just adds a whole other layer.

My point is that we are all in the same place right now, feeling the same things. We are learning the same things and looking for the same jobs. We are your equals, not your subordinates. It would be great if both sides could just wake up and realize that.

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ATTENTION ALL GRADUATING STUDENTS: THIS YEAR'S GRAD BALL DEPENDS ON YOU!

by Megan Cowan and Lisa Smith (LAW III)

Hello to everyone, and a BIG congratulations on reaching your final semester! Returning to the Faculty for the last time certainly brings about mixed emotions, and what better way to finish off your three, three-and-a-half or four years here than a huge party?

In the next week or so, you will receive a survey about the biggest end-of-term party there is – the Grad Ball. The survey was designed by the Grad Ball committee to make sure that this year's ball will be the best one the faculty has ever seen, and for that we need your help!

With the extreme cold of late, it might seem difficult to think of spring and the end of the term – but in order to get things rolling, we need to hear what YOU want at YOUR graduation ball. Afraid the ball will conflict with your plans to write the Ontario bar? Let us know! Dying for a seven-course meal? Tell us! Don't have much money to spend on tickets due to 4+ years of student loans? We want to know! Our survey will touch on all of these aspects (and more!), and there will be plenty of extra space for you to fill in any other comments or suggestions you might have.

The committee promises to do our best to take all of your ideas and preferences into account when organizing this year's ball. Obviously, we can only do so if you actually tell us what you want in the survey, so PLEASE take a few minutes to fill it out and let us know what you think – we think the ball will be that much better because of it.

innocent.

You want to help wrongfully convicted persons prove their innocence. Join Innocence McGill.

You have until this Wednesday at 5pm to apply: innocence.law@mail.mcgill.ca

continued from page 2... When people refer to students who came from CEGEP as "CEGEP kids" it bothers me. When people tell me I missed out on undergrad and that they wouldn't have came in from CEGEP, I get offended (do you not think that we have thought about that when we were deciding to come here?). I honestly cannot get passed it. I start to see discrimination in places where maybe there wasn't any. For instance, while I was organizing Orientation 2007, I introduced myself to a guy in first year and we had that same conversation that I was talking about earlier, and as soon as I told him I was from CEGEP, he turned his head and spoke to someone else. This really hurt me, honestly, is being 2-3 years younger than someone THAT bad? Fortunately, this guy ended up being a friend of mine and he probably doesn't realize how his actions hurt me.

Another example of my complex getting to me is when I introduced myself to a transfer student, who happened to be from Montreal, and the fact that I was from CEGEP came up (come on, that was like 3 years ago!) and before she said anything else, she said "Oh, so you're like really young," and I felt like she was looking down to me. I AM 22 not 12!!

You'd think that after three years I'd kind of get over it and try to brush it off my shoulders when I hear side-handed remarks about "CEGEP kids" and how we don't deserve to be here, that we are too young and take all the "good" grades. Most of the time people say things like that to me not thinking/knowing that I am actually from CEGEP. I am trying to brush it off, believe me. (I'd like to apologize to my friends who have to hear me complain about this quite often!)

But what really gets me are the things I hear year after year about the new group of students. Someone came up to me this fall and told me that they were not going to vote for a particular student in elections because the candidate was from CEGEP. ARE YOU KIDDING ME? And why on earth are you telling me that when I am a CEGEP student who happens to be an elected executive member of the LSA?

One of my favorite CEGEP 'single-outs' is in regards to the JD/LLB issue that is going on. If you go to the website that was put up there is a little survey there indicating the different options that students would like to see. One of the choices is "*J.D./B.C.L. for students with undergrad degree and LL.B./B.C.L. for former CEGEP students.*" When I saw this I nearly peed my pants! Last time I checked law students at McGill Law with a CEGEP background did the 105 credits like everyone else, and learned both the common and the civil law...some people actually think that we shouldn't be able to get the same distinction as our peers. ARE YOU KIDDING ME?

But I must tell you that my all-time favorite CEGEP insult was when someone told me that I was a bad, unskilled and inexperienced president because I was from CEGEP!? Really? Is that all you got? That is why I am not good at my job, a job that I have been involved with for three years, because I am a couple of years younger than you? Alrighty then...

What is this undercurrent at the faculty that stigmatizes CEGEP students? What did we do to warrant such attitude? Sure, we are a few years younger. Yeah, we don't have an undergrad...but am I missing something here...how does that have anything to do with the rest of the students? If anything, that is something that could disadvantage us (in terms of say, writing experience) and advantage the rest.

I would like to say this on behalf of all my co-cegepien(nes) that what you say, the comments that you make, the looks you give, we hear them and they stick with us. So what if we are a couple of years younger than you, we deserve to be here just as much as anyone else does. We had to work hard just like you all did to get here. Now that we are here (and for some of us, we have now been here longer than you), it doesn't matter where we went to school or when our birthdays are, as soon as we walked through the library doors in August, a clean slate was made and we were all in the same boat, whether or not people wanted to acknowledge it. Law school is stressful enough as is and the CEGEP Complex just adds a whole other layer.

My point is that we are all in the same place right now, feeling the same things. We are learning the same things and looking for the same jobs. We are your equals, not your subordinates. It would be great if both sides could just wake up and realize that.

LE MOUVEMENT MCGILL FRANÇAIS

by La Commission des Affaires francophones (Hugues Doré-Bergeron, Alana Boileau, Amélie T. Gouin, Faizel Gulamhussein)

Lettre ouverte à la rectrice de l'Université McGill, Heather Monroe Blum, concernant son appui à la célébration du 40e anniversaire du Mouvement McGill Français

Madame la Rectrice,

Le 28 mars 1969, plus de cinq mil personnes ont manifesté devant l'entrée du campus de l'Université McGill afin d'exiger que celle-ci prenne plus en considération le fait qu'elle sied au cœur d'une province francophone. Cet événement, on peut dire, fut le début d'une ouverture de plus en plus significative de la part de l'administration de l'université envers le français.

Bien que le mouvement visait d'abord la francisation de l'institution, il est aujourd'hui clair que ses répercussions furent bien différentes. On ne parle plus de nos jours de la francisation de l'Université McGill. Par contre, l'idée de donner davantage de place au français, elle, demeure.

S'il est difficile d'identifier une personne comme en étant la génitrice, on peut néanmoins en rattacher l'émergence au Mouvement McGill français. Effectivement, peu après les manifestations imposantes de mars 1969, l'université prit des mesures, timides mais concrètes, qui représentaient les premiers pas d'une ouverture envers le bilinguisme. Dès la session d'automne 1969, l'administration proposait un plan quinquennal qui visait l'accomplissement d'un meilleur équilibre entre le français et l'anglais à l'université, entre autre en tenant de faire en sorte que l'intégrité de l'administration soit bilingue et que 20% des étudiants inscrits soient francophones.

Les années passèrent et les mesures positives devinrent de plus en plus satisfaisantes. Aujourd'hui, par exemple, l'université met à la disposition des étudiants francophones un assistant au Bureau des Étudiants de Première Année et des cours de langue sont offerts aux membres du personnel désirant parfaire leur français. Aussi, de potentiels changements à la loi 15 du Recueil des droits et obligations des Étudiants pourraient bientôt permettre aux étudiants de remettre *tout travail écrit* en français. Cet article pourrait même, grâce à l'amendement proposé par la Doyenne à la vie étudiante (Mme Jane Everett), se retrouver sous peu dans tous les plans de cours.

Toutefois, on ne peut se permettre de baisser les bras. À bien des niveaux, le bilinguisme de McGill est encore très fragile et nécessite qu'on adopte des mesures supplémentaires afin de le renforcer. Les réponses du premier vice-principal exécutif adjoint (études et vie étudiante) aux questions concernant l'état du français à McGill présentées au Sénat en décembre 2006 témoignent d'ailleurs de la volonté de l'administration de continuer de travailler à son amélioration . Les représentants de l'institution semblent donc, eux aussi, au courant de l'importance du maintien des efforts. Le contraire serait étonnant dans la mesure où à bien des égards, la présence du français à McGill représente une force pour notre université. Cela augmente son prestige sur la scène internationale et représente une richesse indéniable qu'elle peut utiliser pour attirer des étudiants ou des professeurs de l'étranger. Finalement, il ne faut pas oublier que McGill fait partie d'une province dont la langue officielle est le français et dont la grande majorité de la population est francophone.

C'est dans cette optique que la Commission des Affaires Francophones (CAF) organisera un évènement, au mois de mars, afin de célébrer le 40e anniversaire du Mouvement McGill français. Nous nous adressons donc à l'administration afin d'ouvrir un dialogue constructif par rapport au fait français à McGill. La célébration du 40e anniversaire de ce mouvement représenterait pour elle un moment idéal pour démontrer son soutien au bilinguisme. Son appui serait perçu comme un geste concret de coopération. Notre seul désir est de collaborer dans la commémoration d'un mouvement qui a eu des résultats positifs sur l'institution qu'est l'Université McGill.

Nous vous demandons, Madame la Rectrice, de répondre aux questions suivantes afin de nous éclairer sur votre position :

1. À la lumière des répercussions positives que le mouvement a eues sur l'université, est-ce que l'administration soutient l'idée de célébrer le 40e anniversaire du Mouvement McGill Français?

2. Est-ce que l'administration voit en cet anniversaire une source de motivation qui encourage le maintien et l'amélioration de l'état du bilinguisme à l'université?

Madame la Rectrice, nous attendrons impatiemment votre réponse à ces questions. Nous nous ferons un plaisir de vous lire et d'engager un dialogue constructif avec vous.

Veuillez agréer, Madame la Rectrice, l'expression de nos sentiments les plus distingués,

La Commission des Affaires francophones

Hugues Doré-Bergeron
Alana Boileau
Amélie T Gouin
Faizel Gulamhussein

[1] Procès Verbal de la réunion du Sénat du 6 décembre 2006

LE MOUVEMENT MCGILL FRANÇAIS

by La Commission des Affaires francophones (Hugues Doré-Bergeron, Alana Boileau, Amélie T. Gouin, Faizel Gulamhussein)

Open Letter to the Principal of McGill University, Heather Monroe Blum, on her support for the celebration of the 40th anniversary of the "Mouvement McGill Français"

Dear Madame Principal,

On March 28th 1969, our downtown campus was home to a demonstration—of over five thousand people—seeking to make McGill University more sensitive to the fact that it is situated in the heart of Canada's only Francophone province. In many ways, this event acted as a catalyst in making the University more open towards the French language.

While the movement may have ultimately envisioned McGill as a Francophone institution, in hindsight, its effects were much different. Today, the desire in making McGill a French institution has faded. Improving the place of French, however, remains a central concern.

Clearly, many individuals and groups have contributed to making McGill a more bilingual University; the "Mouvement McGill Français" was, however, among the most significant. In fact, shortly after the demonstration of March 1969, the University took concrete measures to become more bilingual. From the Fall Semester of 1969, the administration sought to implement a quinquennial plan in order to improve the balance of English and French at the University. Among other features, the plan envisioned a fully bilingual administration and that at least 20% of registered students be francophone.

Over time, the positive steps taken by the University served many needs of the Mcgill's francophone community. Today, for example, there is an assistant for Francophone students in the First-Year Office and language courses are offered for staff who wish to improve their French. Further, anticipated Senate amendments to article 15 of the Charter of Student Rights will allow students to submit any written work in either English or French, where acquiring proficiency in a language is not the purpose of the course. An additional amendment proposed by Dean Everett, as Chair of the Senate Committee on Student Affairs, would have this article appear on all future course syllabi.

While these are all positive steps, work remains to be done. Bilingualism at McGill still requires nurturing and strengthening. During the December 2006 meeting of Senate, in response to questions concerning the state of French at McGill University, the Deputy Provost (Student Life and Learning) demonstrated a willingness on the part of the administration to continue to work towards this strengthening. It is comforting to know that the University's representatives are keenly aware of the importance of strengthening bilingualism. Anything to the contrary would be surprising given that French is a great asset, helping McGill earn prestige on the international level, and featuring in the recruitment of new students and professors. It is also important to be mindful of the fact that McGill is situated in Quebec, where the official language is French and the overwhelming majority of the population is Francophone.

In light of this, the Commission des Affaires Francophones (CAF) is organising an event, in March, to celebrate the 40th anniversary of the "Mouvement McGill Français." We would like, through you, to engage the administration in a constructive dialogue on the place of French at McGill. The celebration will be an ideal moment to recognise the improvements already made at McGill University as well as an opportunity to renew our commitment in support of bilingualism. Your presence, therefore, is of utmost importance and will be interpreted by many as a concrete gesture of partnership for a stronger McGill. Ultimately, our central goal is to commemorate a movement which had positive effects for McGill University and its community.

Madame Principal, we ask you to respond to the following questions in order for us to better understand your position on this topic:

1. In light of the positive consequences that the movement had on the university, does the administration support the idea of celebrating the 40th anniversary of the "Mouvement McGill Français?"

2. Does the administration view this anniversary to be a source of motivation, in order to support and improve bilingualism at McGill?

Madame Principal, we eagerly await your responses to these questions and other sentiments on bilingualism at McGill University. We look forward to engaging in a constructive dialogue with you in this regard.

Most Sincerely,

La Commission des Affaires francophones (CAF)
Hugues Doré-Bergeron
Alana Boileau
Amélie T Gouin
Faizel Gulamhussein

COMPUTER CORNER: NETWORK STORAGE, BACKUP SOLUTIONS AND BEYOND

by Narimane Nabahi (LAW III)

In my last column I discussed various methods for backing up files and suggested that using network based storage was the right approach to take. A number of companies provide such services. Often for a fee, you get access to some disk space on a remote server and a program to assist you in storing your files there.

I want to discuss two that provide free options: IDrive and Microsoft Live Mesh. At a basic level, the two services will provide you with some remote storage. They will also do backups transparently. This is key to a good backup strategy. For those of you that watch too much late night television, think of the Ronco "Set it and forget it!" message: you set these services once, and after that you don't have to remember doing backups because they are done automatically. And beyond this basic concept, both provide a number of useful features that improve on the basic understanding of what a backup is. I will explain some of those features.

Let me add a precision: it's good to periodically check that your backups are **really** working. Once in a while, you should restore a file to ensure the system is working well. The goal is to verify you don't have a false sense of security. But overall, the solutions are better than having to do manual backups.

IDrive

IDrive is one of the few companies that give you a decent feature set for free. They will give everyone 2 gigabytes of space and tools that has some really important features:

- You can schedule the backup to run at any time of the day.

I guess you expected that feature.

- You can schedule the backup to run even if you missed the scheduled time.

This is really good for backups that are scheduled to run when your laptop is off. Imagine you schedule your backup to run at 11pm every night, but that it's not always on at 11pm. This feature will ensure the backup is done at the next available time – when you turn on your laptop.

- The IDrive application can continuously monitor folders.

This is even better than scheduled backups. Every time a file in a backup location is changed, the software will back it up. This means your backups are always recent, and never a day old.

- Files are accessible through the web.

You can retrieve files through the internet, which is very convenient if you want to print a file on your laptop from one of the computer in the library lab.

I've been using this tool for the past few weeks and it seems to be doing a reasonable job. Once the backups stopped running but I installed the latest version and it seems to work fine. I only tried the Windows version but there is also a Mac version.

WHERE: www.idrive.com.

PROS: Free. Two gigabytes space (12 if you allow IDrive to spam your contacts). Great feature set. Automated. Files accessible through the web.

CONS: How long will this be free for? Will only backup when connected to the internet. First backup might be slow if your uplink speed is slow.

Alternative: While I did not try it, Mozy also offers a similar service as the one offered by IDrive. https://mozy.com/registration/free.

Microsoft Live Mesh

First the disclaimer: this is beta software by Microsoft that has been operational for a few months now.

Now that we got this *detail* out of the way, here is good part: Microsoft offers 5 gigabytes of shared and synchronized space. This is a bit different than backups. After you install the application, you start selecting what folders you want on the Mesh. The content of these folders then get sent to your web space. Whenever you change a file, it gets updated on the Internet. This, so far, looks similar to backups, but the service takes a different direction: you can duplicate these folders on other machines.

For example, if you have a desktop computer at home, you can get a duplicate of the folders you synchronized. If you add a file to this folder, whether you do it on your laptop, on your desktop or on the web, the file is replicated everywhere. The risk is that if you erase a file from a synchronized folder on one machine, that file will be erased from all synchronized folders. This is different than pure backups. **This is not an archiving solution**; it is one that reflects the current state of data.

Live Mesh's functionality goes beyond this. You can share folders with other people. This can be useful when working on a shared project: you can create a folder where every team member will store documents related the project. You don't have to email documents to everyone: you just store the file in the shared space and Live Mesh will take care of replicating it. We recently used this on a presentation we were working on. When we found interesting documents, we would store them on the Mesh. We would then notify each other when we found something interesting

in those documents. Instead of emailing each other 30 documents and filling our mailboxes with dozens of emails with attachments, we created a nice folder structure where these documents were classified. The master PowerPoint file was also stored there, so everyone could access the latest saved version without having to constantly email it.

The other great feature of Live Mesh, which is not related directly to backups but can still be useful, is the ability to remotely access your computers from anywhere. Once you install Live Mesh on a computer, you will be able to access it from Live Mesh website or from another computer. If you want to access your home computer from McGill, you can do that by using any computer connected to the Internet. This can be the difference between staying where you are and having to go back home to get that file you forgot to copy to your USB key. Of course if you have already synchronized the folder where that file is stored, accessing your machine will be unnecessary.

Some caveats: Live Mesh does not replicate changes to files that are not closed, so if you keep files open in Word, they won't get replicated. Also, this is not a substitute for a real offline read-only backup. I use both Live Mesh and IDrive on the same folders. I did not try the Mac version.

WHERE: www.mesh.com.

PROS: Automated. Continuous. Files accessible and modifiable through the Web. Allows you to share folders with others. Allows remote computer access to PC desktops. Supports both Mac and PC.

CONS: Beta Software. Not a true backup solution. No remote computer access for the Mac.

*You can find this column **with hyperlinks** online at www.twistlaw.ca. If you have any questions, email me at Narimane.nabahi@mail.mcgill.ca.*

A Sneak Peak: Nurse Jane Goes to Hawaii

by Lexi Pace (LAW II)

Playing January 21st, 22nd and 23rd 2009
Doors open at 18:30, show starts at 7 PM
Moot Court
Tickets: $7

Actus Reus, the beloved faculty theatre troupe, cordially invites/menaces you into attending this year's production, *Nurse Jane Goes to Hawaii* by Allan Stratton. The skilled and tireless labours of director Colleen Kelly have fashioned a hysterical and epically awkward romantic comedy which you simply cannot miss.

Whether it's the worst date you've ever lived through, the test you didn't study for in Grade Eight science, or the time you had to decide between arrest and some other extreme humiliation, *Nurse Jane* will evoke fond memories. All you have to decide is whether you're going Wednesday, Thursday, Friday or all three.

The stars of the show are: Nora Ahmed, Luke Brown, Aaron Lindh, Mari Maimets, Stephanie McKinnon, Jonah Ravel, and Joyce Tam.

"She threw celery at me, radishes, jars of Miracle Whip..."

The end of this and other sentences await when you join Nurse Jane in her exciting adventures. Tickets are on sale now—pick one up from the actors, the director or the stage manager, Lexi Pace.

Come out and support *Actus Reus*! Buy your tickets now!

THE PROPORTIONALITY OF WAR

by RYAN SCHWARTZ (LAW I)

Yet another round of violence has erupted between Israel and Hamas which has produced images of suffering and civilian deaths broadcast around the world. Along with this are familiar outcries against Israel's 'excessive force', 'disproportionate violence', and insensitivity to the circumstances of Palestinian civilians in the Gaza Strip.

According to the BBC, as of the 15th of January, 1083 Palestinians and 13 Israelis have been killed. Less than 6 of the Israeli's were civilians but the number of dead civilian Hamas fighters is unknown. This has led many to conclude that the variance in the number of casualties is proof of Israel's heavy-handedness and war crimes. Moreover, Israel's response to years of rocket barrage is now dubbed as 'disproportionate'. But what is a proportionate response? If a Hamas rocket hits an Israeli kindergarten, is the proportional response for Israel to do the same? To any rational person, this cannot be correct. As they say, an eye for an eye makes the world go blind. So what is the legal and proportional use of force?

In an article published last week in the Israeli press, Prof. Yuval Shany, an expert in international law from the Hebrew University's law faculty, stated that the disparity in casualties has nothing to do with the question of whether Israel's response was legal. The relevant question, he said, is "whether the operation is proportionate to the provocation that led to it. When a single Qassam [rocket] is fired, the state cannot invade and conquer an entire country. There must be a measure of proportion between the action and the reaction. But here, we are not talking about a single Qassam, but about years of Qassams [referring to the nearly 5000 launched in 2007-08 alone]."

Israel, he continued, "is permitted to use force to the degree necessary to end the attacks against it. Therefore, it [the operation] is legal as long as it is meant to prevent attacks."Therefore, it is not legal for Israel to influence a regime change in the Gaza Strip, nor is it legal to deliberately target civilians, even though Hamas deliberately and openly targeted Israeli civilians and If Hamas had its way, the Israeli casualties would be much higher. To that end, it is incontrovertible that the only reason years of Hamas rocket launches on Israel failed to be more lethal is because of their primitive nature; there is no doubt that if Hamas had the capability of causing greater destruction in Israeli cities that they would. For these reasons, is Israel's operation to stop the weapon smuggling and ensure that more sophisticated weaponry does not reach Hamas legal? It is certainly essential for Israel, since more advanced weapons would enable Hamas to target more than the 1,000,000 Israeli civilians who currently live within rocket range. Colloquially we would say that two wrongs do not make a right; by the same token, one side's illegal actions do not entitle the other side to violate the law as well.

So how can the Israeli operation maintain its legality while the number of civilian casualties on the Palestinian side undeniably mounts? Prof. Shany explains that under international law, it is permissible to attack military targets only. "This means targets that make a significant contribution to the other side's war effort." Regrettably, many of targets that the West considers civilian, Hamas has turned into strategic military posts –schools, Mosques, and homes are regularly used to fire Qassam rockets, shoot at Israeli forces and store weaponry and explosives. Despite this, Israel has regularly aborted operations, rerouted air strikes and allowed known Hamas fighter targets to escape in order to avoid harming civilians. Prof. Shany explains that military targets can be struck even if civilians will very likely be hurt, as long as the harm to civilians is proportionate. This depends on factors such as the military value of the target, the extent of the harm suffered by civilians and the measures taken to minimize the harm.

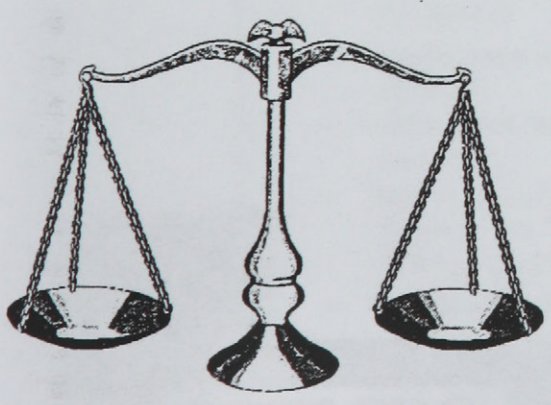
Regardless of one's position on the conflict, it must be appreciated that Israel faced a dilemma before embarking on this operation. Israel left the Gaza Strip and dismantled its settlements there in 2005. Since that time, more than 8000 rockets and mortars have been fired at Israel's population centers. However, Israel has refrained from reacting to these attacks, which are aimed directly and unabashedly at Israeli civilians. Israel has even entered into a ceasefire agreement with Hamas. But when it came time to renew the cease-fire agreement for another six months, Hamas refused and launched 80 rockets on that first day (CNN, Dec 19). Israel then responded with an aerial bombardment and eventually a ground operation.

The argument can be made that Gaza has been a prison and that it is only natural for the Palestinians in Gaza to 'resist'. However, this has no basis in international law, especially when civilians are deliberately targeted. It must also be noted that the Southern border of Gaza is an international border with Egypt and is controlled by Egyptian forces – not Israeli forces. When the Israeli government decided to leave the Gaza Strip, the hope was for the newly un-occupied territory to be used by the Palestinians for begining the process of building their state and their economy. On the day after Israel's withdrawal, the Qassam rockets began to rain down on the Israeli town of Sderot and other villages on the Israeli side of the border. Is there any doubt about what would happen if all the borders and the seaways were open to Hamas weapons smuggling?

Israel is a democratic country with a free press, who's Media is a forum for the most wide-ranging self criticisms and moral debates. Therefore, Israel is

not oblivious to the suffering of the people in Gaza. So what is an elected government, in a country with an undeniable right to sovereignty, a right to self-defence and a clear duty to protect its citizens, supposed to do in a situation such as this? When the enemy refuses to recognize your basic right to existence, refuses to enter into peace negotiations with you, and launches barrage after barrage of rockets from residential neighbourhoods towards your own? What is an elected leader to do when its forces move into a neighbouring territory to destroy weapons being used against it and it discovers caches of weapons hidden in mosques and gunmen firing at their soldiers from the playground of UN administered schools?

It is incumbent upon you, the reader, to ask yourself what you would do if faced with the same situation, before passing judgement. The innocent deaths on both sides are deplorable. The only solution is to negotiate in good faith – this means negotiating without firing. The problem is, it takes two to tango.



AMERICAN LAW SCHOOLS - THE INSIDE BEEF

by SAMANTHA CHERNEY (LAW I, Cornell Univeristy)

An Ivy League law school is peopled by brilliant students wearing argyle sweaters and discussing legal philosophy with their even more brilliant elbow-patched professors. Erudite and worldly, these students are the cream of the crop and operate on a higher plane of existence than yours or mine. I would know. I go to one. It's not Harvard...or Yale...or Princeton, but I *think* Cornell still counts. And it turns out that people here are just as stupid as people anywhere else. The students don't wear argyle, but exclusively sports college insignia from head to toe, and the professors...well it's a hodgepodge of corduroy and pantsuits. There *is* ivy, though.

I've been at an American law school for a bit over a semester now (I'm in 'intercession week' right now – don't ask), and I suppose my good friend Courtney's (your trusty editor) plea to submit an article is as good a reason as any to reflect upon my time here. At the moment, all I can think about is why I chose to leave Montreal to go somewhere just as cold, but I digress.

Cornell, like all American law schools, adheres to the slightly horrifying Socratic Method, which you may know about if your parents forced you to watch "The Paper Chase" (as my father did). Although not every professor is equally enthusiastic, the old-schoolers particularly love to scan their class list, call on an unsuspecting student and ask them minute legal details that they could not possibly remember. My 1000-year-old Contracts professor (who recently banned laptops) was fond of publicly berating unprepared students and generally bellowing. Luckily I chose to sit outside his line of vision and succeeded in not being called on– my single greatest achievement of last semester.

I also underwent my first experience with 100% finals (which made me, unfortunately, feel very little sympathy for my friends at Canadian law schools). A die-hard library studier at McGill, I banned myself from the law library to prevent overexposure to psycho students who don't eat, don't sleep and serve merely to stress me out. Unfortunately, I chose Starbucks. In addition to spending 20$ a day on Signature Hot Chocolates, I spent every day at an already annoying institution during what is arguably the most annoying time of year – the two weeks leading up to Christmas. In one memorable day, I heard "Let it Snow" 12 times (four different versions, three times each). As well as I knew The Federal Rules of Civil Procedure, I undoubtedly knew the lyrics to every Christmas song better – I'm still trying to get "Little Drummer Boy" out of my head.

In the end, there are a lot of positive things I can say about Cornell, but I'm pretty sure you don't really care to hear about how stimulating my Constitutional Law class was. The American college town is a place where I never imagined myself to be in, but I'm doing the best I can. This semester is all about fitting in. I'm off to the Cornell Store to buy a "Big Red" sweatshirt. Tonight – beer pong. Soon, I plan on losing my Montreal-bred sense of superiority and ironic detachment, and then I'm golden.

The following letter was written to the Quid Novi Editors in response to Alex Buzoiu's article in issue 3.

I write in relation to the article: "The Library is not only falling apart but it is infested" contained in the recent issue of *Quid Novi*.

The McGill University Library has 13 branches and both the Library and the University have been aware for some time of concerns about the physical state of its branch libraries. The concerns have been raised by the user community directly in surveys, in advisory committees and noted in various reviews by both our own library staff and external consultation. In response to these concerns, a plan to refurbish the libraries has been in place for four years.

To date, several of the libraries have been fully refurbished, for example, Schulich Library of Science and Engineering, Education Library and Curriculum Resource Centre and the Macdonald Campus Library. Other branch libraries have been upgraded, for example, e.g. Howard Ross Library of Management and the Humanities and Social Sciences Library. The Humanities and Social Sciences Library has had several of its spaces refurbished and its new Cyberthèque has been acclaimed by all. Other branch libraries are targeted for future work as time and funds permit.

The Nahum Gelber Law Library is now ten years old. Many changes have occurred in information dissemination and use since it was just built and plans are under way to "refresh" it. The lamps are being repaired.

Almost all students use more than one branch library for reasons of convenience and interdisciplinary study. Although one might be pleased that law students value "their library", it is disappointing to note that students from other faculties might not be welcome. Learning remains a social experience and sharing knowledge and library space across disciplines remains a goal to which we aspire.

Yours sincerely,

Janine Schmidt

Trenholme Director of LIbraries

The Career Development Office

presents

Public Interest Career Day

A hands-on forum for meeting legal and non-profit professionals working towards the public interest, discussing potential career paths and finding out about various Canadian organizations offering employment, internship and volunteer opportunities.

Cet événement annuel permet aux étudiants d'élargir leurs perspectives d'emploi dans tous les domaines juridiques liés à l'intérêt public. C'est une occasion unique de réunir des praticiens oeuvrant dans de grands domaines rejoignant les droits des personnes, des minorités et le droit international public, pour en nommer quelques-uns. Évidemment, cette journée permet aux organisations de profiter d'une visibilité accrue, et ce en plein cœur de la faculté.

Wednesday, February 18th, 2009

Events taking place:

10:00 a.m. – 11:15 a.m.
Networking Event A 'Meet and Greet' event where students can network with legal professionals working in the public interest (In Common room, sign-up required)

12:30 a.m. - 1:30 p.m.
KioskS Distribution of brochures and information about the organizations' work (Taking place in the Atrium

1:30 p.m. - 2:30 p.m.
Panel of speakers Participants will presenting areas of practice, available opportunities and career advice

2:45 p.m. - 3:30 p.m.
Interview Workshop 15-minute informational interview periods with students. Students will register in advance to sit and speak one-on-one with professionals.

Participants to date:

- ARCH Disability Law Centre
- Canadian Human Rights Commission
- Canadian Red Cross
- Cavaluzzo Hayes Shilton McIntyre and Cornish LLP
- Centre communautaire juridique de Montréal
- Commission for Environmental Cooperation
- Department of Foreign Affairs and International Trade
- Hutchins Caron & Associés
- International Bureau for Children's Rights
- International Criminal Defence Attorneys Association
- Jared Will, avocat
- Le Protecteur du citoyen
- Me Audrey Amzallag
- Montreal City Mission
- Permanent Court of Arbitration
- RAPSIM-Réseau d'aide aux personnes seules et itinérantes de Montréal-
- Secretariat of the Convention on Biological Diversity
- War Child Canada

CDO
CAREER DEVELOPMENT OFFICE
DROIT McGILL LAW

McGill Faculty of Law

Career Development Office
3644 Peel Street, Room 416
Montreal, Qc, H3A 1W9

Placement.law@mcgill.ca

DROIT À L'IMAGE: SEEN AT THE FAC!

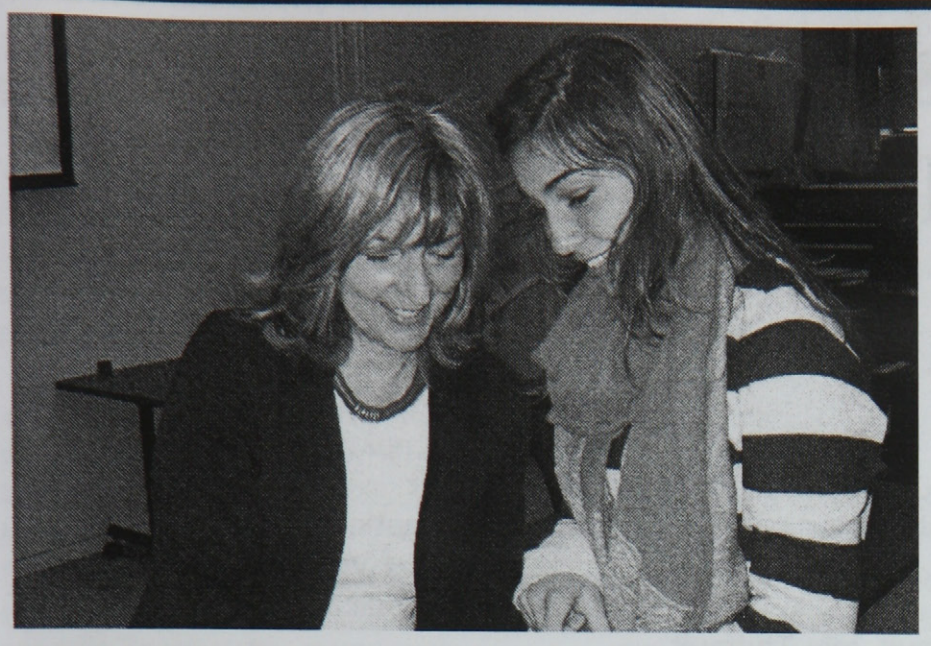
by Charlie Feldman (LAW I)

McGill' International Law Society took a three-day trip to New York City in January. Pictured: First-year Carrie Finlay loads a large bag that her publicist tells the Quid was "just the shoes."

Members of the McGill Law Games team hoist the Spirit Cup at coffee house upon their triumphant return to Montreal. Pictured (from left to right) 1L Chris Porter, 2Ls Nick Turp, Martin Hétu, and Natai Shelsen. While the Quid knows all, we'll abide by the rule: what happens at law games stays at law games.

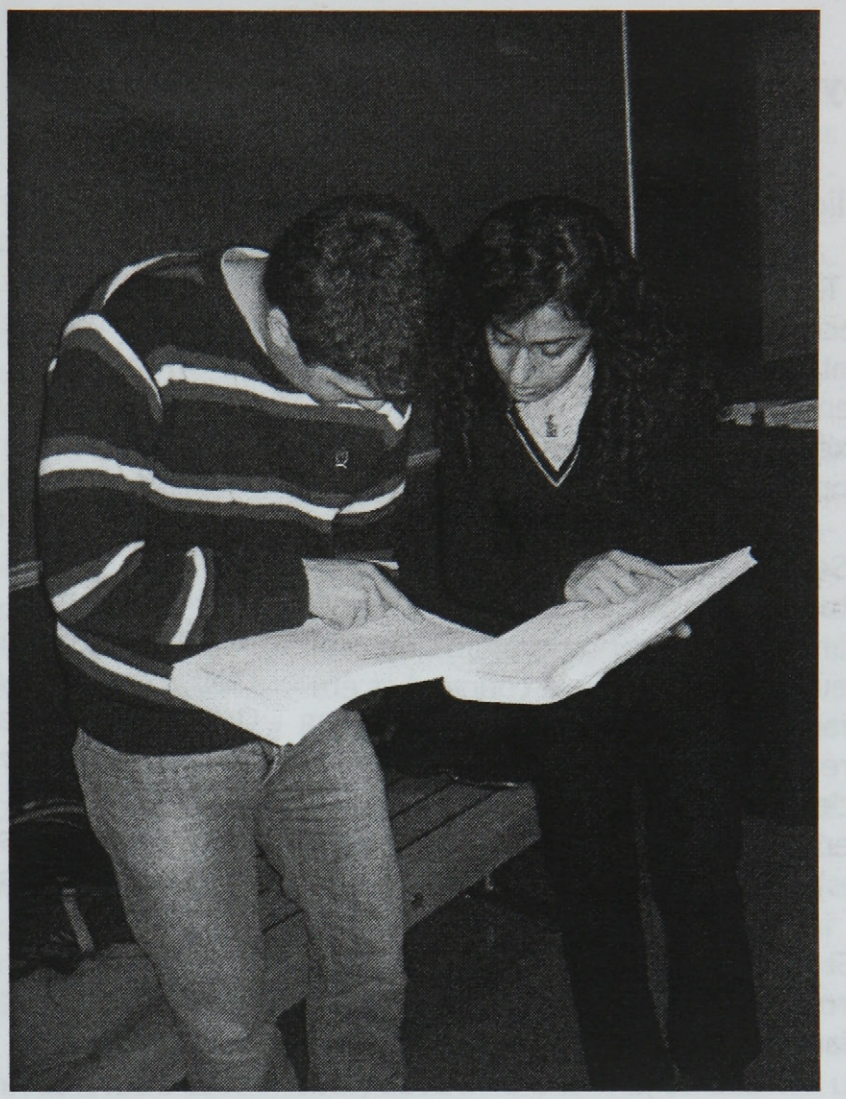
The Quid caught 4L Eytan Bensoussan, 2Ls Tim Bottomer, Stephanie McKinnon, Bryana Jensen and two "non-law" friends bowling recently. While the Quid is well aware of the athletic prowess of the law faculty, it is bewildered by this notion of non-law friends. With less than 10 provisions in the CCQ mentioning 'friends, ' the Quid feels it has a mystery on its hands ... is making non-law friends possible? The Quid needs to get out more...

3L Alex Forest au Coffeehouse visant à amasser des fonds pour la semaine de la culture québécoise. Alex précise : "Cette semaine aura lieu du 16 au 20 février et réservera plusieurs surprises aux étudiants de la faculté voulant découvrir la culture de la belle province! D'ailleurs, un voyage à Québec, pour le célèbre Carnaval, sera organisé les 14 et 15 février pour lancer cette semaine spéciale!"

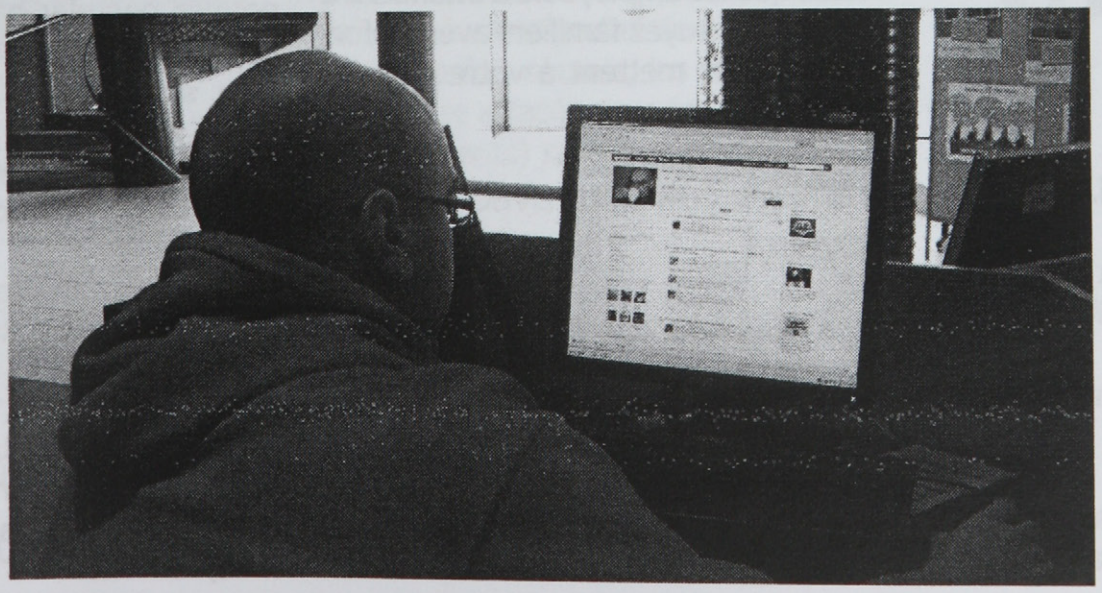


1L Elena Haba and Prof. Jukier discuss Facebook. Sources inform the Quid that Prof. Jukier enjoys seeing how her students spend their free time. Moreover, adds a source, "she loves to see which students are online during her class." The Quid considers itself on notice...

Smiles abound! 1Ls Katie Gleason, Laeka Reza and Sasha Hart (background) are all smiles to be back in Prof. Dedek's contracts class after winter break. One student confided in The Quid that "Prof. Dedek is just so dreamy - everytime I thought about contracts over the break all I could think was how much I want specific performance." The Quid did not ask for further details.



1Ls Ben Carver and Mina Chamsi compare course-pack contents. A Quid source was lucky enough to purchase a course-pack from an upper-year student replete with juicy gossip notes in the margins. The source tells the Quid "you can't imagine how much better this makes doing all the readings!" The Quid now regrets using the bookstore.



1L Joe Flowers en train de faire de la recherche à la biblotheque. Joe serait-il entrain de se préparer pour le devoir de Legal Meth sur Azimut?

NOTES SUR LA COURSE AUX STAGES - RECRUTEMENT DE MONTRÉAL

by Catherine Bleau (CDO)

Éligibilité

Tous les cabinets qui sont à la recherche de stagiaires et/ou d'étudiants d'été ne sont pas signataires de l'entente de recrutement. Les règles fixées par l'entente ne s'appliquent donc pas à ces cabinets.

Selon l'entente de recrutement, les étudiants ayant accumulé 36 crédits dans le cadre du programme de droit peuvent participer à la course. Les étudiants ayant accumulé plus de 48 crédits ne sont pas liés par l'entente (c'est-à-dire que les dates fixées par l'entente pourraient ne pas être suivies).

Si vous êtes en deuxième année d'un programme de 3.5 ans et que vous planifier faire le programme de l'École du Barreau de janvier à avril 2011 (tout de suite après la graduation), vous chercherez probablement un stage pour 2011. **La plupart des employeurs recrutent cette année pour les offres de stage de 2011.**

Voici la liste des cabinets signataires de **l'entente de recrutement, disponible sur myFuture**,
sous l'onglet
Documents/Career Ressources/Type : Recruitment.:
Alepin Gauthier
Bélanger Sauvé
Blake, Cassels & Graydon S.E.N.C.R.L./s.r.l.
Borden Ladner Gervais, s.r.l.
BCF, s.e.n.c.r.l.
Davies Ward Phillips & Vineberg S.E.N.C.R.L., s.r.l. DE GRANPRÉ CHAIT S.E.N.C.R.L.
Fasken Martineau DuMoulin s.e.n.c.r.l., s.r.l.
Fraser Milner Casgrain
Garceau Pasquin Pagé Viens, s.e.n.c.r.l.
Gasco Goodhue Gowling Lafleur Henderson s.r.l.
Heenan Blaikie srl
Joli-Coeur Lacasse Geoffrion Jetté St Pierre Kugler Kandestin, s.e.n.c.r.l.
Lapointe Rosenstein
LaTraverse
Lavery, de Billy Legault Joly Thiffault, s.e.n.c.r.l.
McCarthy Tétrault s.e.n.c.r.l., s.r.l.
McMillan S.E.N.C.R.L., s.r.l/llp Miller Thomson Pouliot s.e.n.c.r.l. Monette Barakett s.e.n.c.
Nicholl Paskell-Mede
Ogilvy Renault llp/s.e.n.c.r.l., s.r.l.
Osler Hoskin & Harcourt
Robinson Sheppard Shapiro
Smart & Biggar
Sternthal Katznelson Montigny
Stikeman Elliott s.e.n.c.r.l., s.r.l.
Woods s.e.n.c.r.l

Collecte d'information

Vous trouverez l'information relative au recrutement de chaque employeur aux endroits suivants :

1. Le Répertoire canadien d'employeurs juridiques de NALP : www.nalpcanada.com
2. Le site internet de l'employeur (section étudiants/stages/recrutement, ect.)
3. Les documents distribués lors de la journée carrières

Notez que les employeurs s'attendent à ce que vous soyez familiers avec l'information qu'ils mettent à votre disposition.

Premiers contacts avec les employeurs

1. La **Journée carrière** de droit civil aura lieu le mercredi 21 janvier de 12 :30 à 14 :45 heures. La liste des employeurs présents est disponible sous l'onglet Events/CareerFairs de myFuture.

2. Les **présentations et portes ouvertes** des employeurs sont toutes affichées sur myFuture, onglet Events/Information Sessions. Vous devez **réserver votre place sur myFuture** (sauf indication contraire).

3. Les **Coffee House** permettent aussi de rencontrer des avocats et stagiaires avec lesquels vous pouvez discuter.

Ces premiers contacts avec les employeurs auront souvent un effet déterminant dans vos choix... ils servent autant à vous différencier qu'à différencier les employeurs.

Nouveau processus de soumission de candidature avec myFuture

La date butoir pour les demandes au ministère de la justice (droit civil, bureaux de Montréal et d'Ottawa) est le **4 février 2009**.

La date butoir pour toutes les demandes envoyées via myFuture est le **9 février 2009**.

1. Trouver les offres auxquelles vous souhaitez postuler

Les offres de stage pour lesquelles vous pouvez postuler par l'intermédiaire du CDO seront toutes affichées sur myFuture, sous l'onglet Job. Afin de faciliter votre recherche, vous pouvez opter pour **Position Type : Articling/Stage du Barreau.**

Vous pouvez ajouter une offre à vos Favoris en cliquant sur l'option **Add Favorite** qui se trouve à droite sur la liste des emplois. Ainsi, il sera plus facile de poser votre candidature à tous les employeurs qui vous intéresse de façon ordonnée, à partir de l'onglet Jobs/Favorites.

2. Préparer vos documents de candidature

Veuillez vous référer aux Guide d'emploi juridique (Legal Employment Handbook) pour la marche à suivre et des exemples de C.V. et de lettres de présentation.

a. **Rassembler vos relevés de note** (officiels ou non). Nous suggérons de faire venir une copie officielle de votre relevé de McGill dès que les résultats de Décembre seront disponibles. La copie numérisée (scan) sera plus nette que le résultat copié-collé de Minerva.

b. Votre C.V. devrait faire entre 1.5 et 2 pages et mentionner la date de votre graduation (MOIS ET ANNÉE). Faire réviser votre C.V. : les *Résumés Clinics* sont annoncés sur myFuture, sous l'onglet Events/CDO Workshops. Vous pouvez y choisir le moment de votre rendez-vous de 15 minutes.

c. Les lettres de recommandation ne sont exigées que pour les demandes au Bureau National (Ottawa) du Ministère de la Justice.

d. N'oubliez pas de faire relire tous vos documents (Lettre, C.V., etc.) par quelqu'un de fiable... afin d'éliminer les coquilles et erreurs de grammaire, ces ennemies qui pourraient vous faire perdre l'entretient de vos rêves.

3. Télécharger vos documents de candidature sur votre compte myFuture

a. Commencer par numériser les documents papier (relevés de note, lettres de référence). Vous pouvez utiliser le format pdf. si vous utilisez le logiciel Adobe ou si la version du pdf est plus récente que 1.4.

b. Téléchargez vos documents sous l'onglet Documents/Documents. Assurez-vous de bien entrer le type de document (CV, lettre, relevé de notes, autres). Autres documents peut inclure lettres de recommandation, liste de cours, liste de références, etc.

c. Si vous souhaitez utiliser une lettre de référence scellée, vous pouvez la faire numériser au CDO. Nous créerons un document sous votre profil que vous pourrez utiliser pour soumettre vos candidatures mais que vous ne pourrez lire vous-mêmes.

d. Vous pouvez avoir un maximum de 10 documents téléchargés à la fois sur votre profil. Vous devrez ainsi peut-être postuler pour un certain nombre d'offres d'emploi, puis retourner à l'onglet Documents pour télécharger d'autres documents
i. **n.b.** dès que vous soumettez votre candidature pour une offre d'emploi à partir du descriptif de l'emploi (voir l'étape suivante), en cliquant sur le bouton « submit », vos documents sont reçus par l'employeur. Les documents qui demeurent sur votre profil, sous l'onglet Documents, ne servent que de banque de documents vous permettant de postuler pour les emplois. Vous pouvez effacer les documents de votre profil sans impact sur les candidatures soumises.

4. Postuler pour un emploi

a. Sous l'onglet Jobs, cliquer sur le titre du poste de l'emploi pour lequel vous posez votre candidature. Vous verrez apparaître le descriptif de l'offre d'emploi.

b. Dans la colonne de droite, vous verrez l'information relative à la soumission de votre candidature.

c. Choisissez méticuleusement les documents à insérer (utilisez la bonne lettre de présentation adressée au bon employeur).

d. Cliquer sur le bouton « Submit ». L'employeur voit votre candidature apparaître sur son site (qui ressemble beaucoup à votre portail de myFuture).
i. **n.b.** Une fois soumis, les documents peuvent être effacés de votre profil (onglet Documents) sans que cela n'altère votre candidature soumise.

Entrevues

1. Procédure

a. Appels : Les employeurs vous contactent directement pour fixer les entrevues. Généralement, plusieurs employeurs contactent les étudiants durant la semaine de lecture (*spring-break*). Il est important d'avoir une boîte vocale (un message professionnel) et de retourner vos appels tous les jours. Plus vous êtes tôt, plus vous avez de flexibilité.

b. Entrevues : Les premières entrevues commenceront le lundi 9 mars. Elles sont généralement suivies de deuxièmes entrevues. La dernière semaine de recrutement, soit celle du 23 mars, est généralement utilisée pour les dernières entrevues, les lunchs, cocktails, soupers, ect.

c. Offres : les offres auront lieu dès lundi 30 mars 2009 à 8 heures. Vous avez 72 heures pour accepter ou refuser une offre.

2. Simulation d'entrevues

a. L'Association du Barreau Canadien (L'ABC) et le CDO vous permettent de pratiquer vos techniques d'entrevue avec des avocats membres de l'ABC. L'activité aura lieu le 11 février 2009. Pour vous inscrire, **postuler pour l'emploi « simulation d'entrevues de l'ABC » sur myFuture**. Vous pourrez choisir l'heure de votre entrevue.

b. Un lunch sera servi dans l'atrium à 12 :30 h. pour permettre une interaction entre les étudiants et les avocats présents.

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A Fond Farewell to George W. Bush

by Alex Herman (Law IV)

Has it been eight years already? It feels like just yesterday when I was bemoaning the new, anti-intellectual president elect from Texas. Time flies, it seems, when you have a focus for your hatred.

But now that Bush, by the time of this printing, will already be gone, to make way for the commencement of a new era, I'll kind of miss him. He had that rare ability to unite people – even though he was uniting those who opposed him. Yet, if not for him, I would never have marched alongside wild radicals with whom I otherwise have little in common. At the great world-wide protest against the Invasion of Iraq in 2003, I met vegan farmers, girls with rainbow-coloured hair who wore ponchos and moccasins, and extremist Maoists, who called themselves "Spartacists" and advocated a simple proletarian life for all. Had it not been for the foreign policy of Mr. Bush, I would never have come across these colourful – and eccentric – people.

The assumed evil of the Bush Doctrine also gave me hope in the somewhat moribund system of the United Nations. For those of us opposing the Iraq War, the UN was given a hallowed, almost infallible, position – notwithstanding the fact that, through the Oil For Food Program, it had been partly complicit in helping certain states gain great financial benefits from the status quo of Saddam Hussein's regime. I also found heroic the anti-American actions of countries (France, Russia, Turkey) who otherwise have far from admirable foreign policies. And, finally, I found a certain poignancy in the somewhat maudlin and misleading filmmaking of Michael Moore.

For these reasons, I must thank George Bush.

It is also necessary to correct certain misconceptions – or, shall we say, misunderestimations. The predominant one is that he was not intelligent. Most of us assumed this, not necessarily from his policies, but rather from his infamous linguistic missteps during speeches. In fact, these laughable proclamations became the primary evidence for disagreeing with his political decisions. We asked: "How can someone who sounds so dumb ever develop smart initiatives?"

The BBC recently compiled a list of well-known Bushisms. Reading it over, I couldn't help but feel a certain admiration for the frankness and creativity of his language. After eight years of listening to this man, I've developed an ear for his cadence, as well as his somewhat Byzantine message.

Here are some of the most beloved utterances of the now-former President, along with some of my own explanations as to their possible meaning:

"Rarely is the question asked: Is our children learning?" (January, 2000)
If we consider "our children" not as the plural of "our child," but rather as a category unto itself, the noun then becomes singular. In the same way, one could say: "We are asking the right questions in the following domains: war, the environment, our children, social security, etc."

"I understand small business growth. I was one." (February, 2000)
In the business community, many owners often associate themselves as symbiotically connected to the business which they founded.

"It's clearly a budget. It's got a lot of numbers in it." (May, 2000)
This, I presume, is a joke. Just think, if Obama had said a similar thing (albeit not in these trying economic times) with a characteristically straight-faced delivery, the media would have been rolling in the press room aisles.

"I know the human being and fish can coexist peacefully." (September, 2000)
A good thing to say in any fishing community. Just think of Harper in the Maritimes. It's sort of like him saying, "The executive must contemplate the best method to balance the interests of the local fishermen, including the possible need to diversify the economy of the region, as well as supporting a generalized moratorium on cod fishing, since, we must think of generations to come and their likely reliance on the same supply."

"They misunderestimated me." (November, 2000)
He gets a lot of flack for this one. But it's quite an ingenious neologism: had he simply said "They underestimated me," the term would be vague and rather clichéd. But by "misunderestimated," we can understand that his detractors did not merely think little of him, but what little they thought was done for the wrong reasons. i.e: Over eight years, we have not only underestimated Bush, but also misplaced that underestimation by thinking him a simpleton when, in fact, he was – in his own way – a genius.

"I think war is a dangerous place." (May, 2003)
Like a great poet, the President combines the tough reality of war with a geographical location ("place"). Is it not true that war must necessarily take place in a place? Lesser minds would overlook this connection.

"The ambassador and the general were briefing me on the - the vast majority of Iraqis want to live in a peaceful, free world. And we will find these people and we will bring them to justice." (October, 2003)
This is a simple example of a quote taken out of context. We have a number of characters involved (ambassador, general, the majority of Iraqis and the terrorists). This likely came at the end of a long passage focusing on the terrorists. Thus, even though he has men-

tioned the majority of Iraqis in the previous sentence, any listener would know that "these people" refers to those mentioned in the central thrust of the speech, the terrorists.

"I'm the decider, and I decide what is best." (April, 2006)
A perfect, pithy description of executive power.

"You know, one of the hardest parts of my job is to connect Iraq to the war on terror." (September, 2006)
True.

I hope this gloss has helped enrich our appreciation of the man who led the world's most powerful country over the last eight years. Perhaps, for his expansion of English vocabulary and syntax, we owe him our grudging respect.

Unfortunately, this may pale in comparison to his less-forgivable errors: the cynicism with which he reneged on Kyoto, the stupidity with which, based on dubious intelligence reports, he invaded Iraq, and, worst of all, the way he interpreted a miniscule electoral victory to allow the full-throttle imposition of neo-conservative policies and cabinet personalities. However, it must be added, had the eight years under Bush not been so desperate, Barack Obama may never have galvanized the support necessary to propel him into the Oval Office.

Care About the Environment? Have You Exercised Your Right to Receive the Latest Issue of the JSDLP?

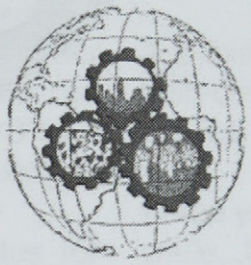
All McGill Law students support the McGill International Journal of Sustainable Development Law & Policy through their student fees and are entitled to a copy of each issue. Your latest copy is waiting in our office, so please come visit us and engage in cutting-edge scholarship on climate change, migration, bio-fuels, and mining industry regulation.

JSDLP articles highlight fresh research on topics that address the intersection between the environment, economics, and society. The peer-reviewed Journal is also a product of countless hours of editing by your friends and colleagues. The editors hope you enjoy the new issue and would love to hear your thoughts about the latest articles or the publication in general.

Please see Lisa in the JSDLP office in the basement of 3661 Peel St. on Wednesday January 21 from 3:00 to 5:00, or on Thursday January 22 from 4:30 to 6:30 to exercise your right to a JSDLP subscription! The editors are also happy to answer your questions and discuss opportunities to become involved with the Journal.

In addition, watch out for the JSDLP's new website that will be unveiled in February, as well as the upcoming Volume 4: Issue 2 - to be released this semester!

McGill International Journal of Sustainable Development Law and Policy



Revue internationale de droit et politique du développement durable de McGill

INTERVENTION

by Mathieu Kissin (LAW II)

Dear College Football,

I think you have a problem. You're addicted to sponsorship revenue. We are all quite concerned. I never thought I'd hear anybody quote a Rob Schneider cameo. He's a c-list actor who owes his entire career to his friendship with Adam Sandler rather than any thespian talents (although I should point out that his movies always find themselves among blockbuster's top 10 rentals of the week). But I guess you're right, sports and business go together like "lamb and tuna fish". Sport itself has evolved into a business. Ask any unhappy player who just got traded to Milwaukee or Oklahoma City.

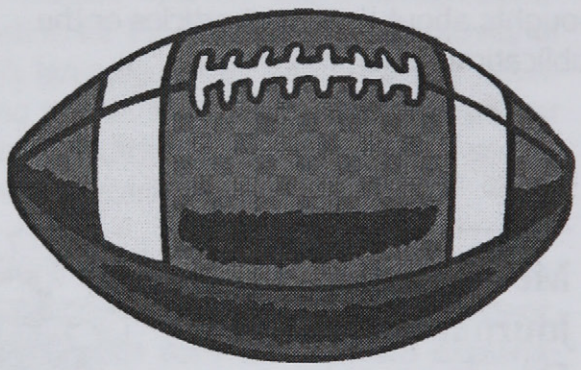
As such, I understand your motivation. Sports franchises want to make money (then again, who doesn't?) and corporations have (or at least had) lots of gwop. Companies buy up tickets and luxury boxes priced well out of the reach of the humble fan to impress prospective clients and/or friends. This facilitates business networking and deal-making. A real heavy hitter might even buy the rights to the stadium, thereby acquiring valuable public prestige and exposure. In Montreal, the Forum has become the Bell Centre and in Toronto, Maple Leaf Gardens has been replaced by the Air Canada Centre. I must admit College football that I coincidentally subscribe to Bell for a number of services, and I tend to fly Air Canada.

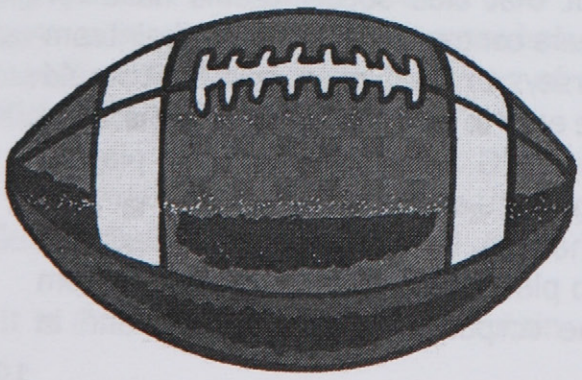
A cynic, particularly one victimized by recent economic woes, might view this corporate spending as wasteful, and a symptom of all that is wrong with today's corporate culture. You pointed out that club soccer teams have for years contracted the front of their team jerseys to the highest bidder. It would be easy to fool any uninitiated spectator that AIG and Samsung were playing against each other (Man U and Chelsea). In European hockey leagues, no piece of equipment is immune from the corporate bumper sticker and in

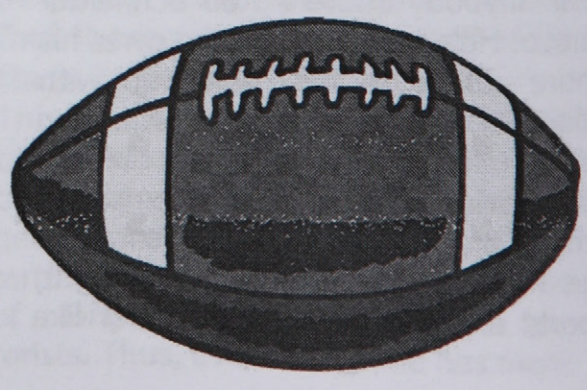
boxing, competitors have for years willingly offered their backs as billboard space (goldenpalace.com). Those examples were tolerable and even somewhat comical. After all, I don't really watch European hockey (I've seen enough of Jonas Hoglund in my lifetime), most boxers really need the money and in soccer, they actually have to buy players (trades are rare and sometimes involve cement) and so without sponsors their jerseys would have nothing in the middle.

I understand. Corporate sponsorship is integral to sports. I'm ok with that, but College Football, you've gone too far. Your Bowl season has crossed the line and reached circus status. I'm willing to overlook that your hair-brained Bowl system unfairly favors traditional big-time college schools over other more deserving schools in order to ensure high television ratings. I can also ignore that unlike a playoff system (see college basketball a.k.a March Madness) your system fails to provide a conclusive outcome to the question of who is truly the year's best college football team. But I cannot stand by while you stoop to such disgraceful low depths. Your bowl system has become nothing more than a cash grab. Some of these games, such as the Cotton Bowl, are steeped in tradition. Is nothing sacred for you anymore? We now have the Fed Ex Orange Bowl, and the Tostitos Fiesta Bowl. You've introduced new Bowl games and seem confident that the Chick-Fil-A Bowl and the Pappajohn's.com Bowl will both be prominently featured some day on ESPN Classic. You say that seniors are thrilled to wrap up their collegiate career by winning the Papajohn's.com trophy, but we both know that its not true. Today's children do not dream of making the winning touchdown grab to secure the golden and oh-so-crisp chicken trophy. Yes, you've stopped short of requiring the winning coach to be showered with ranch sauce, but you've already gone too far. No one sport should award 34 trophies in one season.

Do you really need the money? You already generate revenue through tuition, boosters, ticket sales, merchandise and broadcasting deals and you don't have to pay your players. Your head coaches make almost as much money as their NFL counterparts. We're not naïve, not all that revenue goes to fund academic programs. Have you lost sight of your true purpose? Sport is about celebrating extraordinary individual and collective physical prowess, it is not simply a cash cow. We love you college football and hate to see you lose all your dignity. So next year when Viagra and Preparation H call about packing another Bowl, just say no. It's for your own good.







S-P-I-R-I-T, HERE'S WHAT SPIRIT MEANS TO ME.

by Laura Easton (LAW II)

--This quasi-article/plea for help is dedicated to the rest of my team in Saskatoon, whose award-winning spirit makes me feel warm and fuzzy, even after the drinks are gone.

I recently had the pleasure of attending Law Games 2009 in Saskatoon with nine other students from the faculty. Much to the surprise of just about everybody, we won! Sure we didn't win any of the sporting events, but we won the ultimate prize: The Spirit Cup.

The Spirit Cup is the final award of Law Games, and is accompanied by a $1000 cheque for a charity of our choice. It is awarded by popular vote to the team with the best spirit, measured by amicability –factors such as positivity, participation, loudness and dedication to the law games party all play a vital role.

Given the stereotypes of the McGill Law student, it was awesome to win something that recognized we were a team of nice people out to have a good time. Nevertheless, when I returned to Montreal and sat in on the Dean's Townhall last week I heard a comment only too familiar in the faculty. In discussing the merits of a pass-fail system, a student mentioned the benefit of creating a more collegial atmosphere in the faculty, an area in which many students feel we are lacking. In addition to the number of people who have spoken to me about the ambiance of our faculty on a private level, I have also now heard it in multiple public forums. Pass-Fail grading (however attractive it may be) is not the solution. What is, you ask? YOU ARE! This project, more than any other, starts with each individual's own behaviour. So start being nice to one another. I give you...

LAURA'S LAW-GAMES-INSPIRED DIY GUIDE TO FOSTERING A COMMUNITY IN YOUR LAW SCHOOL

CHEER FOR THE OTHER TEAM:
-Someone else's success is not your failure. Congratulate this person *genuinely* for their accomplishments. You are blessed to be surrounded by intelligent and talented people from whom you can learn on a daily basis.

GET TO KNOW THE OTHER TEAM
-"commun" is in both communication *and* community. It's not rocket science. It is, however, probably Latin, and Rome wasn't built in a day. If you want to have a strong community, you need strong communication. Once you know them, you will be that much more inclined to treat them with respect. *Sadly I think some of us still need encouragement to treat people respectfully.

BE SPORTSMANLIKE
-Respect your classmates and their contributions. Even if you find their opinions routinely objectionable, remember that learning to effectively counter can only help you in your career, and thus this person is positively contributing to your legal education.
Do not use your facebook status for nasty comments (Easton, Quid Dec08), and do not hate on people for their inability to do proper citations ;). Help foster a positive learning environment in which your peers feel comfortable asking questions and sharing their views (Shelsen, Quid Jan09). Do not roll your eyes at classroom contributions, and when taking part in a discussion, always ask yourself:
"Are you listening, or are you waiting to speak"

PARTICIPATE
There are so many wonderful opportunities in our faculty. Go to the lectures put on by your fellow students. Go the various parties put on by the LSA and its various clubs. Attend coffeehouse. If you feel like you don't know enough people in the faculty, and you don't know where to start, start by coming to see me, or write me at my mcgill address. I promise to help you find a way to get involved, or to introduce you to more people –I am a master of the HIMYM "have you met my friend [Ted]".

STAY POSITIVE
-if you make a bad play, shake it off. I, Laura, am obviously not promoting optimism. But realistically, you probably have *something* to be positive about. If you find yourself losing positivity, find a way to laugh at yourself. If you're too low for even that, use my favourite motivational quote by Ralph Waldo Emerson:
"Finish each day and be done with it. You have done what you could. Some blunders and absurdities no doubt crept in; forget them as soon as you can. Tomorrow is a new day; begin it well and serenely and with too high a spirit to be encumbered with your old nonsense."

And lastly, the easiest thing to do to help create a positive environment...
SMILE

When you pass people in the hallways, smile...EVEN IF YOU DON'T KNOW THEM. Sometimes it's that simple.

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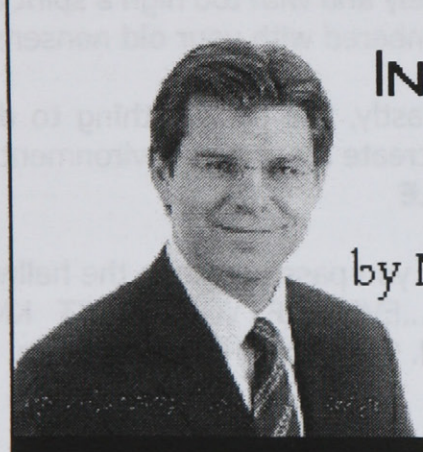
CONFERENCES

Ogilvy Renault - January 2009

PRACTICING IN EMPLOYMENT AND LABOUR LAW

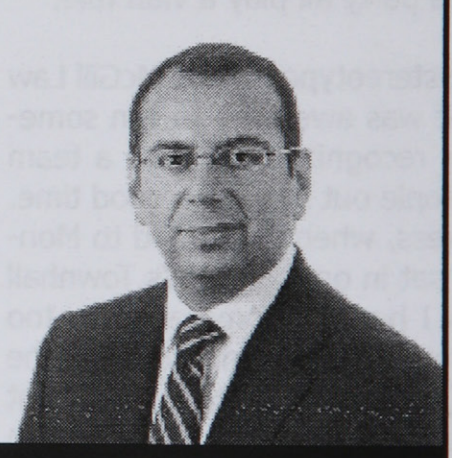
by Mtre. William Hlibchuk

TUESDAY JANUARY 20, 2009 AT 5:00 P.M.



INTERNATIONAL ARBITRATION AND BUSINESS LAW

by Mtres. Martin Valasek and Solomon Sananes



MONDAY JANUARY 26, 2009 AT 5:00 P.M.

Each conference will be followed by a cocktail (no specific dress code) and will be held at our Montréal offices located at 1981, McGill College Ave. (11th Floor), corner Maisonneuve, right next to the McGill metro station.

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Nomination de Philippe Couillard : l'erreur de McGill

by Guillaume Grenier (LAW II)

McGill annonçait le 8 janvier dernier la nomination de Philippe Couillard à titre de chercheur principal (*senior fellow*) en droit de la santé. Le service des relations publiques de l'Université n'a sans doute pas eu grand peine à propager la nouvelle vu la notoriété de celui qui a tour à tour porté les chapeaux de (neuro)chirurgien, de ministre de la Santé et, depuis peu, de conseilleur stratégique pour le fonds d'actions privé Persistence Capital Partners (PCP). Si le potentiel de « rayonnement » que recèle M. Couillard pour McGill est immédiatement apparent, l'à-propos de sa nomination l'est beaucoup moins. Comme ministre, M. Couillard a fissuré la pièce maîtresse des services publics québécois—le système de santé public universel—afin que les intérêts privés puissent s'y immiscer et s'enrichir. Les professions de foi envers le système public et autres déclarations onctueuses qu'il aurait pu servir à la population durant son mandat sont devenues vides de sens maintenant que le « tapis rouge » législatif et réglementaire de la privatisation a été déployé – maintenant que les premiers rejetons concrets de ce régime juridique (cliniques Rockland MD et compagnie) apparaissent sur le territoire québécois, et maintenant que les intérêts privés qu'il a servis comme ministre sont devenus les siens avec son passage chez PCP. Il est navrant de voir McGill confier la coordination de la réflexion sur les politiques publiques en santé à celui dont l'action politique a été aussi unilatéralement dirigée vers la satisfaction des intérêts privés. Plus troublant encore est le présent cumul des chapeaux de chercheur et d'investisseur privé : il est indéfendable que McGill octroie à M. Couillard un poste d'influence dans la sphère universitaire qui l'aidera à créer un terrain fertile pour ses intérêts d'affaires.

Durant son mandat en tant que ministre de la Santé, Philippe Couillard a posé, par l'entremise de la « loi 33 » (qui fut, rappelons-le, adoptée sous le bâillon) et de quelques autres instruments législatifs et réglementaires, les bases juridiques nécessaires à l'ouverture de marchés privés en santé, tant en ce qui concerne le financement que la prestation de soins. En matière de financement, son intervention principale fut d'autoriser l'assurance privée duplicative pour trois types de chirurgies (hanche, genou et cataracte), en réponse au jugement *Chaoulli* de la Cour suprême. (Il faut noter au passage que le gouvernement n'était nullement contraint d'agir comme il l'a fait; se rapporter à l'exégèse du jugement faite par Marie-Claude Prémont pour une discussion approfondie de cette question .) En ce qui concerne la prestation de soins, la pièce de résistance se trouve dans le nouveau régime juridique des « centres médicaux spécialisés » (CMS), des quasi-hôpitaux privés où devaient se pratiquer à l'origine les trois « chirurgies Chaoulli ». La clinique Rockland MD, qui a fait couler beaucoup d'encre, en est un exemple. En juin 2008, un simple décret—il n'y eut donc pas de débat à l'Assemblée nationale—devait ouvrir large la voie aux CMS de telle sorte qu'ils puissent pratiquer la plupart des chirurgies.

La distinction théorique entre financement privé et prestation privée est souvent avancée par les tenants de la privatisation pour rassurer les citoyens qui s'inquiètent avec raison du spectre d'un système de santé à deux vitesses; il est dit que les chirurgies faites au privé resteraient financées par le public, donc largement accessibles. Or, un « vase communicant », pour reprendre l'expression de Marie-Claude Prémont, existe déjà entre les deux en ce qui concerne les « chirurgies Chaoulli ». Il ne resterait plus qu'à soumettre l'assurance privée duplicative à la même opération d'extension « généreuse » contemplée pour les CMS pour qu'un système de santé à deux vitesses soit solidement établi. Enfin, la levée de l'actuelle interdiction d'une pratique mixte des médecins—dans le public et dans le privé—est un autre exemple d'un levier juridique favorisant la privatisation du système de santé. Bien que non adoptée, la proposition, qui figure dans le récent rapport Castonguay, ne semblait certainement pas susciter la réprobation de M. Couillard.

Non seulement le régime juridique de la privatisation introduit par M. Couillard pave-t-il la voie à un système de santé à deux vitesses aux antipodes de l'objectif d'universalité du système public, mais son institution même est soutenue par des justifications erronées. On nous serine constamment le refrain qu'un système de santé privé parallèle désengorgerait le réseau public et réduirait donc les listes d'attente. Or, les études internationales (ex. : Tuohy *et al*., 2004) et canadiennes (ex. : Armstrong, 2000; Lomas, 2007) démontrent plutôt le contraire : les pays où les systèmes privés et publics coexistent présentent le temps d'attente plus long dans le système public que ceux qui n'adoptent pas un tel parallélisme. Cela s'explique entre autres par le mouvement des professionnels de la santé (médecins, infirmières, techniciens, etc.) du public vers le privé. On nous dit aussi que les coûts du système de santé croissent de façon vertigineuse, que le gouvernement n'est plus en mesure de supporter le poids budgétaire du système de santé. Certes, les coûts augmentent... comme c'est le cas partout dans le monde. La croissance est d'une somme toute modérée au Canada : de 1975 à 2005, les coûts en proportion du PIB sont passés de 7% à 9,8%. À titre de comparaison, les États-Unis, durant la même période, ont vu les coûts augmenter de 7% à 15,3%. L'argument de l'efficacité—pardon, de l'efficience—supposée des services privés en comparaison de la supposée lourdeur administrative des services publics tombe également à plat : « en 2004, le British Medical Journal rapportait que le [National Health Service] déboursait 47 % plus de plus pour

une chirurgie de remplacement de la hanche lorsqu'elle était effectuée dans un établissement privé à but lucratif. En 2002–2003, un pontage coûtait 91 % de plus dans ces cliniques que dans un hôpital public en Angleterre . » D'autres études tendent dans la même direction.

Mais, nous dira-t-on peut-être, le doyen de la Faculté de droit ne disait-il pas que le groupe de recherche en santé « est un espace ouvert où il y a toute la gamme des opinions »? Philippe Couillard n'affirmait-il pas qu'il « instituer[ait] un forum universitaire où tous les points de vue seront bienvenus et débattus »? (*Le Devoir*, 9 janvier 2009) Difficile de voir dans ces énoncés autre chose que de plates assurances et des lieux communs du même acabit que ceux qui ont jalonné le parcours de M. Couillard au ministère de la Santé— et qui ont été ultimement contredits par un programme législatif sans ambages et par le virage professionnel vers le privé qui a suivi.

Le comble, toutefois, réside dans le fait que M. Couillard restera associé à la firme PCP. Après avoir jeté les bases juridiques nécessaires à l'ouverture des marchés privés, après avoir joint ceux qui contrôlent ces marchés privés, M. Couillard bouclerait la boucle en investissant le terrain universitaire. Comment McGill peut-elle justifier un tel tour du chapeau, un tel conflit d'intérêts? Verra-t-on bientôt un chercheur principal en politiques publiques sur la gestion de l'eau qui est actionnaire de la Lyonnaise des Eaux? À l'origine, le ton de cette question se voulait quelque peu facétieux, mais à bien y réfléchir, il semble qu'une telle perspective n'est pas aussi farfelue qu'il pourrait sembler. Il est indéfendable que McGill permette une telle confluence d'intérêts en une même personne.

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[1] Marie-Claude Prémont, « L'affaire Chaoulli et le système de santé du Québec. Cherchez l'erreur, cherchez la raison », [2006] 51 *Revue de droit de McGill*, 168-195.

[2] Alicia Priest, Michael Rachlis et Marcy Cohen, « Pourquoi attendre? Des solutions publiques aux listes d'attente en chirurgie. », Centre canadien de politiques alternatives, 2007.

Justice and Procedure

by Léonid Sirota (LAW IV)

In two articles published in the last edition of the Quid, the Muslim Law Students' Association (MLSA) argued, in essence, that the LSA's sending a letter admonishing the principal of Queen's University following racist incidents there was justified by the seriousness of these incidents. I believe that this argument is deeply mistaken. It is, simply put, a politically correct restatement of Machiavelli's blunt "the end justifies the means." Democratic and constitutional procedures are not ni ceties to be done away with in moments of indignation. Procedure must be respected for real justice – as opposed to random outcomes that sometimes happen to be just – to be achieved.

The MLSA concedes that "the LSA's mandate can be a legitimate concern" but argues that the LSA Council itself should set the limits of the LSA's mandate. It claims that "procedural and bureaucratic matters ... have a tendency of ... consolidating decision-making ability in the hand of a few. And it blames the issue of procedures and mandate for "stifl[ing] leadership and hinder[ing] the LSA from making a difference where it can." In the face of injustice, neutral procedures can be disregarded for the sake of bringing the society closer to ideals enshrined in the Charter of Rights and Freedoms.

It is a pity that the MLSA is oblivious to the fact that the LSA's way of showing leadership was precisely to leave a few (members of the executive) choose their course of action without so much as consulting constituents who never gave them a mandate for doing so. While both strong leadership and democratic decision-making in which all those interested can take part may be desirable in a polity such as the LSA, these two ideals are in conflict. A leader (or group of leaders) is more effective and stronger if it does not need to consult constituents over its decisions. Conversely, democratic decision-making is, usually, of necessity slower than decision-making by a single leader, since more voices must be heard and taken into account before a decision is taken.

Procedures, in a democratic polity, are the means to mediate the conflict between the need to act quickly and the need to take various opinions into account. They are not merely "bureaucratic" (though bureaucracy does thrive on them) as the MSLA seems to believe. Procedures, such as general assemblies and referenda in the LSA's context, or multiple readings of a bill in Parliament, ensure that concerned members of a polity are given time and an opportunity to intervene in the debate before a decision is taken. But they also ensure that the debate will not be endless.

No matter how compelling a cause, no circumstances save perhaps "a clear and present danger" justify disregarding the established procedure for decision-making. It may be that a decision taken without consultation, or by a biased decision maker, will nevertheless be conform to some ideal of justice or fairness. But – as the controversy over the LSA's actions demonstrate – it will be bound to strike people as arrived to in an arbitrary fashion. It is not for nothing that the maxims *audi alteram partem* and *nemo judex in causa sua* are called rules of *natural* justice. Respecting appropriate procedures – perhaps creates – whatever substantive value and legitimacy a decision may have. Disrespecting procedures makes a decision suspect because it means that it was arrived at without hearing everyone who was entitled to be heard.

It is also not for nothing that the protection of human rights, which the MLSA claims to promote, began with procedural protections – the right to trial by jury, habeas corpus, the right not to be taxed without Parliament's assent. Procedural protections are basic. They are the foundation on which all subsequent protections are built. They might not (always) be sufficient for justice to be upheld, but without them, substantive justice cannot be sustained.

It is ironic that the MLSA invokes the *Canadian Charter of Rights and Freedoms* as a justification for disregarding democratic procedure and letting the

LSA Council define its own mandate. In case the MSLA didn't notice, one of the values the *Charter* protects is democracy (see ss. 3 to 5 of the *Charter*). And of course one of the main reasons for enacting the *Charter*, or any similar bill of rights, is that we do not think it is appropriate for Parliament and the legislatures to set the scope of their own mandates with respect to human rights. Although the LSA Council cannot wield the same kind of power as Parliament does, it is also constrained by a Constitution, because its mandate is limited in scope. For the constitutional constraint to have any meaning, only the LSA's members, not the Council itself, must be able enlarge this scope.

In short, respect for procedures is essential for all those concerned to be able to make their voices heard; it is thus a necessary requirement of democracy; it is indispensable to ensure that justice appear to be done and indeed be done with regularity and not only from time to time; it is the basis for all human rights. To that procedures can be disregarded in the interest of greater justice, or expediency, or *raison d'état*, is not only wrong, but dangerous. Of that, Guantanamo Bay is the best demonstration.

Truth v. Satya

by ANONYMOUS

The sage Patañjali wrote the Yoga Sutras as an eight limbed approach that would form a structural framework for yoga practice. The first of the eight limbs is *Yama* which refers to universal morality and codes of conduct which, if attended to, purify human nature and contribute to health and happiness in the individual and society. Within *Yama* there are five vows, of which the second is the one that I wish to discuss. The second vow is *Satya* which translates to truthfulness and honesty. When yogis say that they practice *Satya* they mean that they strive to maintain a commitment to truthfulness in word and in thought.

While many of us 'academics' may turn our noses up at yoga and all its "ohms" and "koom-ba-ya's", I think we would have to admit that this *Yama* is not so far off from our supposed reasons for attending law school and ultimately becoming lawyers; we may not be looking to purify human nature, but we supposedly want to promote universal morality and appropriate codes of conduct. When witnesses are sworn in before a judge, they are told to "swear to tell the truth and nothing, but the truth"; they are told to practice *satya*.

It was not too long ago that we all wrote personal statements, which undoubtedly spoke of our commitment to social justice, promotion of ethical behaviour, and of course the highest esteem with which we regard *the truth*! And then upon convincing the McGill board of admissions (by some miracle of G-d) of our moral dedication and our worthiness of admittance into their faculty, we begin our journey toward becoming the 'promoters of order and justice of tomorrow'. Except, that triumphant march towards morality is quickly halted by constitution, code and contracts. It soon becomes very clear that it is not about the truth, but rather about the application of the law. It's about moveables versus immoveables; it's about personal rights versus real rights (...whatever that *really* means!); it's about constitutional entrenchment versus parliamentary legislation; it's about section 91 versus section 92; it's about article 33 of the Canadian Charter. It is about following the delineated procedure. It is not about seeking the truth.

Take for example, *Westendorp v. the Queen* [1983] wherein Westendorp, a prostitute, solicited an undercover cop and was subsequently arrested under municipal article 6.1 entitled, "order on the streets". Westendorp was initially found guilty, but the decision was overturned in the Court of Appeal where Westendorp argued that article 6.1 was unconstitutional. It was decided that the municipality was acting outside of its jurisdiction, with a municipal article dealing with a moral issue (prostitution), and that morality is a matter of criminal law, i.e., federal jurisdiction. In this instance, *the truth* is that Westendorp was guilty of prostitution, but *the law* denied her guilt as a matter of procedure.

Another area within which the law takes precedence over the truth (which I find to be extremely shocking) is in the question of maternity and using a surrogate mother. I am talking about the instance where a woman is inseminated *with the eggs and the sperm of another woman and man* who wish to have a baby because the woman would not or could not to carry the child. The woman that carries the baby is not contributing genetically. According to Article 541 of the CCQ, any agreement whereby a woman undertakes to procreate or carry a child for another person is absolutely null. Therefore, filiation here is the same as usual, meaning the woman that gives birth holds the maternal filiation and the paternal filiation is as usual, even though the woman who gave birth to the child did not contribute to the genetic creation of this child! In this case, the genetic mother (the true mother in my view) must adopt her child in order for her to be legally considered the mother of the child. Apparently the truth of a situation is simply what the law says it is.

These are just two situations that I have encountered in my brief study of law. I am not trying to say that I think the law and our entire society is backwards and untruthful. On the contrary, I believe in the law and I believe our society functions as well as it does, as a result of the procedures that establish its order. I am simply saying that I am disenchanted. My naïveté is gone. I don't know if it is possible to simultaneously practice satya and practice the law. I don't know which one should take precedence. I don't know whether I should personally strive to practice one, or the other. I do know that our society is lacking in Yama, the universal morality that promotes health and happiness. And I just don't know if there is any way for us as lawyers, bound by our law, to restore the ethical and moral fibers of our society.

Hockin Report on Securities Regulation: Still Asking the Wrong Questions

by Colin Burn (LAW II)

"In the event that the transition mechanisms and plans described above not lead to the implementation of a single comprehensive national securities regime in Canada, we suggest that the federal government consider unilateral action *to implement such a regime." (Expert Panel on Securities Regulation, Pg. 62).*

Last week Thomas Hockin, P.C. submitted his expert panel's report on a single national securities regulator to the federal government. The report, which is at least the fourth of its kind since 2000, recommended that the federal government begin to initiate the establishment of a national securities commission. The panel's work, which has received wide praise in the Canadian financial, legal, academic and media communities, should be commended for its detail and effective inquiry into a future federal regulatory system. It is almost without question that on many substantive issues, the report has gone further than prior reports and is perhaps a last step toward finally initiating a federal securities regulator. However, importantly it has failed where all prior reports, studies and recommendations have failed. That is, Hockin's panel has failed to ask and answer the underlying constitutional question justifying unilateral federal government usurpation of existing provincial authority.

To provide some background, Securities legislation has always been a subject of provincial jurisdiction thanks to their authority over property and civil rights. As the investment industry developed and the bureaucracy and infrastructure developed with it, provinces established local securities regulators (which employ highly-paid legal professionals). Consequently, Canada currently has 13 distinct agencies, where most countries have only 1. For years industry professionals have been calling for a single federal securities regulator. From a policy point of view there is little-to-no debate that a single national regulator would provide more efficient and more effective regulation of Canadian capital markets. Despite this widely-held consensus, several provinces have continually refused to cooperate with any initiatives that seek to consolidate the authority (and jobs!) of the provincial regulators. This is where the Hockin report comes in.

The Hockin report, to no one's surprise, recommended that the provinces dissolve their existing securities legislation and work with the federal government to create a single, more efficient financial regulator. While the implementation process does include some positive nuances that could allow for hold-out provinces to ease into a federal regime, the report maintains the recommendation that, in the event that some provinces continue to refuse to cooperate, the federal government unilaterally institute a federal regime by dismantling the provincial regulators. Since the Quebec and Alberta governments have already repeated their refusal to cooperate, the constitutional issues get interesting; not to mention fundamental to the execution of a federal regime.

Can the federal government, in the face of provincial resistance, unilaterally establish federal legislation that replicates existing provincial legislation? Moreover, can it then dissolve existing provincial legislation to avoid duplication? Given how many people have looked at regulatory reform, it is surprising that so few people have asked this fundamental Constitutional question.

After corresponding with the expert panel's counsel, it is clear the Hockin panel did not really investigate this question at all, but instead relied on legal opinions provided to a similar committee in 2003, which is available here: http://www.wise-averties.ca/report_en.html.

Without getting into too great detail, Canadian jurisprudence tells us that unilateral federal encroachment, in the manner recommended, would be *ultra vires*. The leading case on this issue is *General Motors v. City National Leasing* where the Supreme Court held that the encroaching federal law would only be deemed valid if it: (1) operated under a federal regulatory scheme, (2) operated under the oversight of a regulatory agency, (3) was concerned with trade in general and not a specific industry, (4) must be nationally regulated in order to be effective, and (5) would fail if one province did not implement the legislation. On its face, a federal securities regulator would fail the fourth and fifth test.

While there are certainly some other heads of power the federal government could claim in order to enter into the regulatory field, none seem capable of justifying such sweeping federal encroachment, let alone the dismantling of provincial institutions. The Hockin committee is undoubtedly an excellent step forward, but without the cooperation of all of the provinces, it seems highly unlikely that any unilateral action can be achieved. It would be wise if the Canadian financial, legal, academic and media communities – and certainly expert panels – analyzed these constitutional questions more closely rather than cheerlead the federal government into what could become an unwinable and potentially messy constitutional conflict.

Time to Get Married

by Maithili Sagar (LAW III)

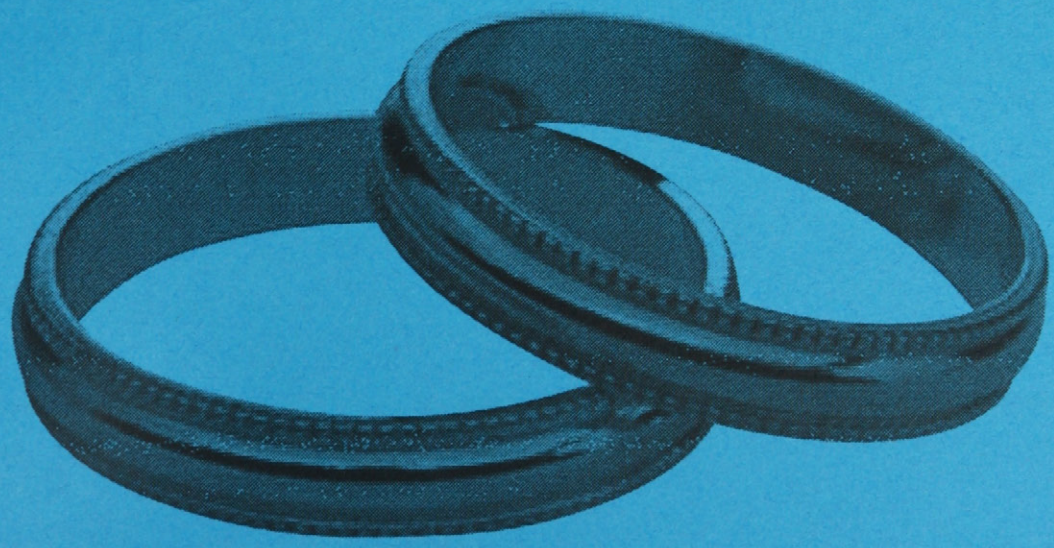
So you think you feel a lot of pressure? Living up to your parents' expectations, doing well at school, finding a job, blablabla...Trust me, that's nothing compared to being an almost 25 year old single brown (aka South Asian for you politically correct and annoying people) woman. For those of you who have lived sheltered lives and have never had the wonderful opportunity to interact with us brown people, I should help you better understand my situation. It's really simple: brown + female + almost 25 = time to get married.

This pressure wouldn't be that bad if I actually had someone in mind, but alas, I'm at that single stage with no potentials. So you know what that means – it's time for word to get out that my family is "searching", which is code for "desperately seeking alliance for tall, fair and educated girl who will learn how to cook and can afford to hire someone to clean". Honestly, I'm open to being introduced to and meeting people, but I don't like to sound like such a desperate person. I'm nowhere near being desperate (talk to me in three years).

Sadly, the most influential person in my life is starting to get desperate – my grandmother. It's really nice of her to take such an interest in me, and I try not to get too scared when she tells me that all the decent boys will be married off and I will have to settle for someone "below" me, but talking about how I need to find someone ASAP doesn't really help me. I do want to explain to you that I don't come from some backward family that will force me into an arranged marriage (at least I don't think so). I've been brought up in an educated and wonderful family that taught me to be independent and ambitious. The problem is that my grandmother, and increasingly my parents, believe that it's better to be independent and confident while being married.

All this trouble started when I got into law school. It's as if my family suddenly realized that they don't have to worry about my career or my future anymore. This means that as Indian parents and grandparents, they have one last duty to fulfill – getting me married. Their realization has made attending all of my friends' weddings a bit unbearable. See, Indian weddings are matrimonial heaven for parents of single children. It's a networking event whose importance can only be compared to on-campus interviews for New York, not even Toronto. I could actually see my grandmother stare at me and then at some random single guy to try to figure out if we would make a good couple based on the most important criterion: fairness of the skin.

Every now and then, my family asks me if I have met anyone at university. Seriously, what do they expect? I'm in law, not medicine or engineering where you can smell brown people from meters away. My grandmother thinks there is hope for me and is really excited that I'll be working in Toronto this summer because there are just so many more Indian people there. I don't know what she expects me to do though – should I walk around with a poster saying "single Indian woman with Canadian citizenship who will give dowry"? Anyways, just remember that the next time you think you have a lot of pressure, consider what I'm going through. And if ever you do have someone you want to introduce me to, first send his biodata to my grandmother's email address – director@marrymygranddaughter.com.



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